



The State of New Hampshire
Department of Environmental Services



Michael P. Nolin
Commissioner

Peter Narkotsky
7 Greenwood Drive
Merrimack, NH 03054

ADMINISTRATIVE ORDER
No. WD 06-016

Re: Watershed Management Bureau
Complaint File 1544

May 3, 2006

A. INTRODUCTION

This Administrative Order is issued by the Department of Environmental Services, Water Division to Peter Narkotsky pursuant to RSA 485-A:22, III. This Administrative Order is effective immediately upon issuance.

B. PARTIES

1. The Department of Environmental Services, Water Division ("DES"), is a duly-constituted administrative agency of the State of New Hampshire, having its principal office at 29 Hazen Drive, Concord, New Hampshire.
2. Peter Narkotsky is an individual having a mailing address of 7 Greenwood Drive, Merrimack, NH 03054.

C. STATEMENTS OF FACTS AND LAW

1. RSA 485-A:13, I(a) prohibits the discharge of any wastes to, or disposal of any wastes in, a surface water of the state without first obtaining a permit from DES. As part of the permitting program developed under this statute, the Commissioner of DES has adopted Env-Ws 401 relating to permits and has adopted Env-Ws 1700 to establish water quality standards for the state's waters.
2. Peter Narkotsky is the deeded owner of the property located 7 Greenwood Drive in Merrimack more particularly described on Merrimack Tax Map 6A-1, as Lot 049 (the "Property").
3. On or about January 31, 2006, DES received a complaint alleging that dog fecal matter from the Property may be adversely impacting the quality of Baboosic Lake.
4. Dog fecal matter is a waste within the meaning of RSA 485-A:2, XVI, and shall not be discharged to or disposed in a surface water of the state.
5. On March 2, 2006, DES conducted a site inspection and observed approximately five dogs in a dog pen on the Property. Water quality sample station locations were established, for the purpose of bracketing the unnamed stream (the "Stream") adjacent to the dog pen area on the Property.

6. On April 4, 2006, DES conducted a site inspection of the Property during a rain event that generated stormwater runoff. During the site inspection DES personnel observed the following:

- a. Dog fecal matter disposed of along the banks and in the Stream that directly discharges to Baboosic Lake.
- b. Dog fecal matter within a subsurface waste barrel adjacent to the Stream.

7. The Stream and Baboosic Lake are surface waters of the state within the meaning of RSA 485-A:2, XIV, and are classified as Class B waters pursuant to RSA 485-A:11.

8. Env-Ws 1703.06(a) establishes the Escherichia coli limit for Class B waters as not to exceed 406 Escherichia coli (E. coli) per 100 milliliters in any one sample.

9. The Stream quality, immediately upstream of the dog fecal matter and subsurface waste barrel was analyzed by the DES Laboratory Services Unit ("LSU") revealed an E. coli level of 470 E. coli per 100 milliliters.

10. The Stream quality, immediately downstream of the dog fecal matter and subsurface waste barrel was analyzed by the DES LSU revealed an E. coli level of 12,100 E. coli per 100 milliliters.

D. DETERMINATION OF VIOLATIONS

1. Peter Narkotsky has violated RSA 485-A:13, I(a), by depositing dog fecal matter into Class B surface waters of the state.
2. Peter Narkotsky has violated Env-Ws 1703.06(a) by causing the E. coli level in the Stream to exceed 406 E. coli per 100 milliliters.

E. ORDER

Based on the above findings, DES hereby orders Peter Narkotsky as follows:

1. **Immediately** cease depositing fecal matter into and adjacent to any surface water of the state, including the Stream that runs through the Property that is a tributary to Baboosic Lake.
2. **Within 5 days from the date of this Order**, remove from the Stream, stream banks and areas adjacent to the stream, all dog fecal matter, by hand using rakes and shovels and dispose of such waste in accordance with state law.
3. **Within 10 days from the date of this Order**, notify DES in writing that all dog fecal matter has been properly disposed of and in accordance with this Order and state laws and regulations.
4. Send correspondence, data, reports, and other submissions made in connection with this

Administrative Order, **other than appeals**, to DES as follows:

Jody Connor, Limnology Center Director
Watershed Management Bureau
DES Water Division
P.O. Box 95
Concord, NH 03302-0095
Fax: (603) 271-7894
e-mail: jconnor@des.state.nh.us


F. APPEAL


Any person aggrieved by this Order may appeal the Order to the Water Council by filing an appeal that meets the requirements specified in Env-WC 200 within 30 days of the date of this Order. Copies of the rule are available from the DES Public Information Center at (603) 271-2975 or at <http://www.des.state.nh.us/desadmin.htm>. Appealing the Order does not automatically relieve Peter Narkotsky of the obligation to comply with the Order.

G. OTHER PROVISIONS

Please note that RSA 485-A:22 provides for administrative fines, civil penalties, and criminal penalties for the violations noted in this Order, as well as for failing to comply with the Order itself. Peter Narkotsky remains obligated to comply with all applicable requirements. DES will continue to monitor Peter Narkotsky's compliance with applicable requirements and will take appropriate action if additional violations are discovered.

This Order is being recorded in the Hillsborough County Registry of Deeds so as to run with the land.


Harry T. Stewart, P.E., Director
Water Division


Michael P. Nolin, Commissioner
Department of Environmental Services

Certified Mail/RRR: [7000 1670 0000 0587 5985]

cc: Gretchen Hamel, Legal Unit Administrator
Public Information Officer, DES PIP Office
Jennifer Patterson, Sr. Asst. Attorney General, NHDOJ/EPB
Cec Curran, Merrimack Health Officer
Watershed Management Bureau, Complaint File 1544